

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH CHAN, TAMARA HOFFMAN, RACHEL EHRENPREIS, CHAIM KATZ, WINNIE CHEUNG, MEIR EHRENPREIS, JOHN BAILEY, SEAN CARNEY, LUIS DIAZ AND FAMILIES FOR A BETTER PLAN FOR CONGESTION,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, THE METROPOLITAN TRANSPORTATION AUTHORITY, THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY, SHAILEN BHATT, in his official capacity as Administrator of the Federal Highway Administration, RICHARD J. MARQUIS, in his official capacity as Division Administrator of the New York Division of the Federal Highway Administration, NICHOLAS A. CHOUBAH, P.E. in his official capacity as Chief Engineer for the New York State Department of Transportation, WILLIAM J. CARRY in his official capacity as Assistant Commissioner for Policy for the New York City Department of Transportation,

Defendants.

Case No. 23-cv-10365-LJL
[rel. 1:24-cv-01644-LJL]
[rel. 1:23-cv-10365-LJL]

Oral argument requested

[PROPOSED] ORDER

Upon consideration of Plaintiffs' Motion for Summary Judgment, it is **ORDERED** that Plaintiffs' Motion for Summary Judgment is **GRANTED**, and Defendants' Motion for Summary Judgment is **DENIED**.

It is further **ORDERED**, pursuant to 42 U.S.C. §§ 4321 *et seq.* and 5 U.S.C. §§ 701–706, that the U.S. Department of Transportation Federal Highway Administration's ("FHWA") Finding of No Significant Impact ("FONSI") and Environmental Assessment ("EA") are **VACATED**.

The Court further enters a **DECLARATORY JUDGMENT** that FHWA's failure to prepare an Environmental Impact Statement ("EIS") or adequately explain why an EIS was unnecessary here violates the National Environmental Policy Act ("NEPA"), its implementing

regulations, and the Administrative Procedure Act. *See* 42 U.S.C. §§ 4321 *et seq.*; 5 U.S.C. §§ 701–706.

The Court further enters a **DECLARATORY JUDGMENT** that FHWA's FONSI and Final EA are invalid as a matter of law, were prepared in violation of NEPA, and are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. *See* 42 U.S.C. §§ 4321 *et seq.*; 5 U.S.C. §§ 701–706.

The Court further **ORDERS** FHWA to prepare an Environmental Impact Statement, as required under NEPA. 42 U.S.C. §§ 4321 *et seq.*

SO ORDERED

Date: _____

Hon. Lewis J. Liman
United States District Judge